



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

FILED
JUL 26 2019
PURSUANT TO RCH 3-203. BILL

ORDINANCE _____
85 (2018), CD2

A BILL FOR AN ORDINANCE

RELATING TO VACATION RENTALS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the Land Use Ordinance to further regulate vacation rentals.

SECTION 2. Section 21-2.150-2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-2.150-2 Administrative enforcement.

(a) In lieu of or in addition to enforcement pursuant to Section 21-2.150-1, if the director determines that any person is violating any provision of this chapter, any rule adopted thereunder or any permit issued pursuant thereto, the director may have the person served, by registered or certified mail, restricted delivery, return receipt requested, or by hand delivery with a written notice of violation and order pursuant to this section. However, if the whereabouts of such person is unknown and cannot be ascertained by the director in the exercise of reasonable diligence and the director provides an affidavit to that effect, then a notice of violation and order may be served by publication once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS Section 1-28.5.

~~[(a)]~~(b) Contents of the Notice of Violation. The notice must include at least the following information:

- (1) Date of the notice;
- (2) The name and address of the person noticed;
- (3) The section number of the provision or rule, or the number of the permit that has been violated;
- (4) The nature of the violation; and
- (5) The location and time of the violation.



A BILL FOR AN ORDINANCE

~~[(b)]~~(c) Contents of Order.

- (1) The order may require the person to do any or all of the following:
 - (A) Cease and desist from the violation;
 - (B) Correct the violation at the person's own expense before a date specified in the order;
 - (C) Pay a civil fine not to exceed ~~[\$1,000.00]~~ \$1,000 in the manner, at the place and before the date specified in the order; and
 - (D) Pay a civil fine not to exceed ~~[\$1,000]~~ \$5,000 per day for each day in which the violation persists beyond the date specified in paragraph (C), in the manner and at the time and place specified in the order.
- (2) Notwithstanding the civil fines specified in subdivision (1)(C) and (D), if the violation is a violation of any provision of this chapter relating to the requirements for transient vacation units or bed and breakfast homes, then, in addition to requirements in subdivision (1)(A) and (B), the order may require a person to do any or all of the following:
 - (A) For the initial violation:
 - (i) Pay a civil fine of \$1,000, in the manner, at the place and before the date specified in the order; and
 - (ii) Pay a civil fine of \$5,000 per day for each day in which the violation persists beyond the date specified in subparagraph (i), in the manner and at the time and place specified in the order.
 - (B) For a recurring violation:
 - (i) Pay a civil fine of \$10,000 in the manner, at the place, and before the date specified in the order; and
 - (ii) Pay a civil fine of \$10,000 for each day in which the violation persists beyond the date specified in subparagraph (i), in the manner and at the time and place specified in the order.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **85 (2018), CD2**

A BILL FOR AN ORDINANCE

~~[(2)]~~(3) The order must advise the person that the order will become final 30 days after the date of its mailing or delivery. The order must also advise that the director's action may be appealed to the zoning board of appeals.

~~[(e)]~~(d) Effect of Order--Right to Appeal. The provisions of the order issued by the director under this section will become final 30 days after the date of the mailing or delivery of the order. The person may appeal the order to the zoning board of appeals as provided in Charter Section 6-1516 ~~[of the city charter]~~. However, an appeal to the zoning board of appeals will not stay any provision of the order.

~~[(d)]~~(e) Judicial Enforcement of Order. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.

(f) Notwithstanding any other provision to the contrary, in addition to daily civil fines, the director may impose a fine in an amount equal to the total sum received by the owner, operator, or proprietor of a bed and breakfast home or transient vacation unit from any impermissible rental activity during the period in which the owner, operator, or proprietor was subject to daily fines.

(g) Nothing in this section shall preclude the director from seeking any other remedy available by law."

SECTION 3. Chapter 21, Article 2, Revised Ordinances of Honolulu 1990, is amended by adding a new Section 21-2.150-3 to read as follows:

"Sec. 21-2.150-3 Advertisements for transient vacation units or bed and breakfast homes.

(a) Advertisements.

(1) Definitions. As used in this subsection:



A BILL FOR AN ORDINANCE

"Advertisement" means any form of communication, promotion, or solicitation, including but not limited to electronic media, direct mail, newspapers, magazines, flyers, handbills, television commercials, radio commercials, signage, e-mail, internet websites, text messages, verbal communications, or similar displays, intended or used to induce, encourage, or persuade the public to enter into a contract for the use or occupancy of a bed and breakfast home or transient vacation unit.

"Person" means a judicial person or a natural person, and includes businesses, companies, associations, non-profit organizations, firms, partnerships, corporations, limited liability companies, and individuals.

- (2) Prohibition. Advertisements for all bed and breakfast homes and transient vacation units are subject to this subsection.
- (A) It is unlawful for any person to advertise or cause the advertisement of a bed and breakfast home or transient vacation unit without including in the advertisement:
- (1) A nonconforming use certificate number obtained pursuant to Section 21-4.110-1 or Section 21-4.110-2; or
- (2) For transient vacation units located in the resort district, resort mixed use precinct of the Waikiki special district, or in the A-1 low-density apartment district or A-2 medium-density apartment district pursuant to Section 21-5.640(a), the street address, including, if applicable, any apartment unit number.
- (B) Within seven days after receipt of a notice of violation, the owner or operator of a bed and breakfast home or a transient vacation unit shall remove, or cause the removal of, the advertisement identified in the notice, including, without limitation, any advertisement made through a hosting platform. If the advertisement is not removed within seven days after receipt of the notice of violation, a fine of not less than \$1,000 and not more than \$10,000 per day will be levied against the owner or operator associated with the bed and breakfast home or transient vacation unit, for each day the advertisement is on public display beyond seven days from the date the notice of violation is received.



A BILL FOR AN ORDINANCE

(C) The existence of an advertisement will be prima facie evidence that a bed and breakfast home or a transient vacation unit is being operated at the listed address. The burden of proof is on the owner of the subject real property to establish that the property is not being used as a bed and breakfast home or transient vacation unit, or that the advertisement was placed without the property owner's knowledge or consent.

(3) Exemptions. The following are exempt from the provisions of this subsection.

(A) Legally established hotels, whether owned by one person, or owned individually as unit owners but operating as a hotel as defined in Chapter 21, Article 10.

(B) Legally established time-sharing units, as provided in Section 21-5.640.

(b) Nothing in this subsection precludes the department from seeking any other remedy against a violator of this section."

SECTION 4. Chapter 21, Article 2, Revised Ordinances of Honolulu 1990, is amended by adding a new Section 21-2.150-4 to read as follows:

"Sec. 21-2.150-4 Bed and breakfast homes and transient vacation units – Complaints.

(a) Any person may submit a written complaint to the director reporting a violation of the provisions of this chapter regarding bed and breakfast homes and transient vacation units.

(b) A written complaint reporting a suspected violation of the provisions of this chapter must:

(1) Identify the address of the bed and breakfast home or transient vacation unit that is the subject of the suspected violation;

(2) State all of the facts that cause the complainant to believe that a violation has occurred;



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **85 (2018), CD2**

A BILL FOR AN ORDINANCE

- (3) Identify the provisions of this chapter that the complainant believes are being violated; and
- (4) Provide the complainant's address where the director may mail a response to the complaint.
- (c) Within 30 days after receiving a written complaint reporting a violation of the provisions of this chapter, the director must provide a written response to the complainant either:
 - (1) Declining jurisdiction over the complaint, in which case the complainant may pursue judicial relief pursuant to HRS Section 46-4(b);
 - (2) Entering a finding of no violation, which will be appealable to the zoning board of appeals pursuant to Charter Section 6-1516; or
 - (3) Advising the complainant that the director has initiated an investigation of the complaint."

SECTION 5. Chapter 21, Article 2, Revised Ordinances of Honolulu 1990 ("Administration and Enforcement"), is amended by adding a new Section 21-2.150-5 to read as follows:

"Sec. 21-2.150-5 Depository of fees and civil penalties relating to bed and breakfast homes or transient vacation units.

Notwithstanding any other ordinance to the contrary, payments of fees and civil penalties relating to bed and breakfast homes or transient vacation units shall be deposited into a special account of the general fund, to be appropriately named by the department of budget and fiscal services, and used by the department of planning and permitting for expenses related to the enforcement by the department of the provisions of this chapter relating to bed and breakfast homes and transient vacation units."

SECTION 6. Chapter 21, Article 2, Revised Ordinances of Honolulu 1990 ("Administration and Enforcement"), is amended by adding a new Section 21-2.150-6 to read as follows:

"Sec. 21-2.150-6 Unpermitted bed and breakfast homes or unpermitted transient vacation units.

- (a) Definitions. As used in this section:



A BILL FOR AN ORDINANCE

"Unpermitted bed and breakfast home" means a bed and breakfast home that is not operating under a valid nonconforming use certificate pursuant to Section 21-4.110-2.

"Unpermitted transient vacation unit" means a transient vacation unit that is not:

- (1) Located in the resort district, resort mixed use precinct of the Waikiki special district, or A-1 low-density apartment district or A-2 medium-density apartment district pursuant to Section 21-5.640; or
 - (2) Operating under a valid nonconforming use certificate pursuant to Section 21-4.110-1.
- (b) It is unlawful for any owner or operator of an unpermitted bed and breakfast home or unpermitted transient vacation unit, or the owner or operator's agent or representative to:
- (1) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit for fewer than 30 consecutive days;
 - (2) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit, where such rental, offer, or rental agreement limits actual occupancy of the premises to a period of less than the full stated rental period, or conditions the right to occupy the rented premises for the full stated rental period on the payment of additional consideration;
 - (3) Set aside or exclusively reserve an unpermitted bed and breakfast home or unpermitted transient vacation unit for rental or occupancy for a period of 30 consecutive days or more, but limit actual occupancy of the premises to a period of less than the full stated rental period, or condition the right to occupy the rented premises for the full stated rental period on the payment of additional consideration; or
 - (4) Advertise, solicit, offer, or knowingly provide rental of an unpermitted bed and breakfast home or unpermitted transient vacation unit to transient occupants for less than 30 consecutive days."



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **85 (2018), CD2**

A BILL FOR AN ORDINANCE

SECTION 7. Chapter 21, Revised Ordinances of Honolulu 1990 ("Land Use Ordinance"), is amended by adding a new Article 2A to read as follows:

"Article 2A. Hosting Platforms

Sec. 21-2A.10 Booking Services.

- (a) It is unlawful for a person acting as, or on behalf of, a hosting platform to provide and collect, or receive a fee for, booking services in connection with any bed and breakfast home or transient vacation unit located within the city if such bed and breakfast home or transient vacation unit is not lawfully registered, permitted, or otherwise allowed as a bed and breakfast home or transient vacation unit pursuant to this chapter at the time the bed and breakfast home or transient vacation unit is booked.
- (b) Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a bed and breakfast home or transient vacation unit in the city that is not lawfully registered, permitted, or otherwise allowed pursuant to this chapter, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

Sec. 21-2A.20 Registration.

- (a) It is unlawful for any hosting platform to provide booking services to owners or operators of bed and breakfast homes or transient vacation units located within the city without first registering with the department. In order to register, a hosting platform shall provide a hosting platform registration statement to the director, in a form prescribed by the director, pay a registration fee of \$100, and agree in writing:
 - (1) To obtain written consent from all owners or operators of bed and breakfast homes or transient vacation units located within the city for the disclosure of the information required under Section 21-2A.30; and
 - (2) To furnish such information to the city in accordance with Section 21-2A.30.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **85 (2018), CD2**

A BILL FOR AN ORDINANCE

- (b) A hosting platform may cancel its registration under this section by delivering written notice of cancellation to the director. The director may cancel a hosting platform's registration under this section for cause, including any violation of this article, by delivering written notice of cancellation to the hosting platform no later than 90 days prior to the effective date of cancellation. Nothing in this section relieves the owner or operator of a bed and breakfast home or transient vacation unit located within the city from the requirements set forth in Section 21-2.150-3.

Sec. 21-2A.30 Reporting.

- (a) Subject to applicable laws, all hosting platforms registered pursuant to Section 21-2A.20 shall report to the director on a monthly basis, on the date and in the electronic format specified by the director, for each bed and breakfast home and transient vacation unit located within the city for which the hosting platform provided booking services in the preceding month. The report must include:
- (1) The names of the persons responsible for each listing;
 - (2) The address of each listing;
 - (3) The transient accommodations tax identification number of the owner or operator of the bed and breakfast home or transient vacation unit;
 - (4) The length of stay for each listing; and
 - (5) The price paid for each stay.
- (b) The director may disclose such information to the appropriate state or city officials to ensure compliance with this article, state tax laws, and county tax ordinances, and any applicable land use laws and ordinances.

Sec. 21-2A.40 Penalties.

If the director determines that a hosting platform is violating any provision of this article, notwithstanding the civil fines specified in Section 21-2.150-2(b)(1)(C) and 21-2.150-2(b)(1)(D), a violator is subject to a civil fine of not less than \$1,000 and not more than \$10,000 for each day that the violation continues."



A BILL FOR AN ORDINANCE

SECTION 8. Table 21-3, Revised Ordinances of Honolulu 1990 ("Master Use Table"), is amended by amending the "Dwellings and Lodgings" category to amend the "Transient vacation units" use entry, to read as follows:

"TABLE 21-3 MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District, please refer to Table 21-9.6(A).

KEY: Ac = Special accessory use subject to standards in Article 5
Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
C = Conditional Use Permit-major subject to standards in Article 5; public hearing required
P = Permitted use
P/c = Permitted use subject to standards in Article 5
PRU = Plan Review Use

ZONING DISTRICTS																					
USES (Note: Certain uses are defined in Article 10.)	P-2	AG-1	AG-2	County	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1
DWELLINGS AND LODGINGS																					
Transient vacation units							P/c	P/c					P P/c								



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 85 (2018), CD2

A BILL FOR AN ORDINANCE

SECTION 9. Section 21-4.110-1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-4.110-1 Nonconforming use certificates for transient vacation units.

- (a) The purpose of this section is to ~~[treat]~~ permit certain transient vacation units ~~[which] that~~ have been in operation since prior to October 22, 1986, ~~[as nonconforming uses and to allow them]~~ to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section. This section applies to any owner, operator, or proprietor of a transient vacation unit who holds a valid nonconforming use certificate issued pursuant to this section on the effective date of this ordinance.
- ~~[(b)]~~ The owner, operator, or proprietor of any transient vacation unit which is operating in an area where such use is not expressly permitted by this chapter shall, within nine months of December 28, 1989, establish to the satisfaction of the director that the use was in existence prior to October 22, 1986 and has continued through December 28, 1989, or shall cease its operation. The owner, operator, or proprietor shall have the burden of proof in establishing that the use is nonconforming. Documentation substantiating existence may include records of occupancy or tax documents, such as State of Hawaii general excise tax records, transient accommodations tax records, and federal and/or State of Hawaii income tax returns, for the years 1986 to 1989. Upon a determination that the use was in existence prior to October 22, 1986 and has continued through December 28, 1989, the director shall issue a nonconforming use certificate for the transient vacation unit.
- ~~[(c)]~~ Failure to obtain a nonconforming use certificate within nine months of December 28, 1989 shall mean that the alleged nonconforming use, as of December 28, 1989, is not a bona fide nonconforming use, and shall not continue as a nonconforming use but shall be treated as an illegal use.]
- ~~[(d)]~~(b) The owner, operator, or proprietor of any transient vacation unit who has obtained a nonconforming use certificate under this section shall apply to renew the nonconforming use certificate in accordance with the following schedule:
- (1) between September 1, 2000 and October 15, 2000; then
 - (2) between September 1 and October 15 of every even-numbered year thereafter.



A BILL FOR AN ORDINANCE

Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use during each calendar year covered by the nonconforming use certificate being renewed and that there were transient occupancies (occupancies of less than 30 days apiece) for a total of at least 35 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a transient occupancy. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate. The requirement for the 35 days of transient occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.

~~[(e)]~~(c) The owner, operator, or proprietor of any transient vacation unit who has obtained a nonconforming use certificate under this section shall display the certificate issued for the current year in a conspicuous place on the premises. In the event that a single address is associated with numerous nonconforming use certificates, a listing of all units at that address holding current certificates may be displayed in a conspicuous common area instead.

(d) Advertisements for transient vacation units operating under a nonconforming use certificate pursuant to this section are subject to Section 21-2.150-3."

SECTION 10. Section 21-4.110-2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-4.110-2 Bed and breakfast homes--Nonconforming use certificates.

(a) The purpose of this section is to ~~[prohibit bed and breakfast homes, while permitting]~~ permit certain bed and breakfast homes ~~[which] that~~ have been in operation since prior to December 28, 1989, to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section. This section applies to any owner, operator, or proprietor of a bed and breakfast home who holds a valid nonconforming use certificate issued pursuant to this section on the effective date of this ordinance.

~~[(b)]~~ The owner, operator, or proprietor of any bed and breakfast home shall, within nine months of December 28, 1989, establish to the satisfaction of the director that the use was in existence as of December 28, 1989, or shall cease its operation. The owner, operator, or proprietor shall have the burden of proof in establishing that the use is nonconforming. Documentation substantiating existence of a bed and breakfast home as of December 28, 1989 may include



A BILL FOR AN ORDINANCE

~~records of occupancy or tax documents, such as State of Hawaii general excise tax records, transient accommodations tax records, and federal and/or State of Hawaii income tax returns, for the year preceding December 28, 1989. Upon a determination that the use was in existence as of December 28, 1989, the director shall issue a nonconforming use certificate for the bed and breakfast home.~~

- ~~(c) Failure to obtain a nonconforming use certificate within nine months of December 28, 1989 shall mean that the alleged nonconforming use as of December 28, 1989, is not a bona fide nonconforming use, and shall not continue as a nonconforming use, but shall be treated as an illegal use.]~~

~~[(d)](b)~~ The owner, operator, or proprietor of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall apply to renew the nonconforming use certificate in accordance with the following schedule:

- (1) ~~[between]~~ Between September 1, 2000 and October 15, 2000; then
- (2) ~~[between]~~ Between September 1 and October 15 of every even-numbered year thereafter.

Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use for each calendar year covered by the nonconforming use certificate being renewed and that there were bed and breakfast occupancies (occupancies of less than 30 days apiece) for a total of at least 28 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a bed and breakfast occupancy. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate. The requirement for the 28 days of bed and breakfast occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.

~~[(e)](c)[Except those bed and breakfast homes which are nonconforming uses, and, after nine months from December 28, 1989, for which a nonconforming use certificate has been issued and renewed, as required, pursuant to this section, bed and breakfast homes are prohibited in all zoning districts.]~~ Section 21-5.350 relating to home occupations shall not apply to bed and breakfast homes.



A BILL FOR AN ORDINANCE

~~[(f)]~~(d) Those bed and breakfast homes for which a nonconforming use certificate has been issued and renewed, as required, pursuant to this section shall operate pursuant to the following restrictions and standards:

- (1) Detached dwellings used as bed and breakfast homes shall be occupied by a family and shall not be used as a group living facility. Rooming shall not be permitted in bed and breakfast homes.
- (2) No more than two guest rooms shall be rented to guests, and the maximum number of guests permitted within the bed and breakfast home at any one time shall be four.
- (3) There shall be no exterior signage that advertises or announces that the dwelling is used as a bed and breakfast home.
- (4) One off-street parking space shall be provided for each guest room, in addition to the required spaces for the dwelling unit.
- (5) Advertisements for bed and breakfast homes operating under a nonconforming use certificate pursuant to this section are subject to Section 21-2.150-3.

~~[(g)]~~(e) The owner, operator, or proprietor of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall display the certificate issued for the current year in a conspicuous place on the premises."

SECTION 11. Section 21-5.640, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-5.640 Time sharing and transient vacation units.

(a) Time sharing and transient vacation units ~~[shall be]~~ are permitted in the A-1 low-density apartment zoning district and A-2 medium-density apartment zoning district provided:

- ~~[(a)]~~(1) They are within 3,500 feet of a resort zoning district of greater than 50 contiguous acres; and



A BILL FOR AN ORDINANCE

~~[(b)](2)~~ The resort district and the A-1 or A-2 district, as applicable, ~~[shall have been]~~ were rezoned pursuant to the same zone change application as part of a master-planned resort community.

- (b) This subsection applies to any transient vacation unit subject to subsection (a), or located in the resort district or the resort mixed use precinct of the Waikiki special district. The owner, operator, or proprietor of the transient vacation unit, and any rental agent thereof, shall comply with Section 21-2.150-3, relating to advertisements for transient vacation units.

SECTION 12. Table 21-9.6(A), Revised Ordinances of Honolulu 1990 ("Waikiki Special District Precinct Permitted Uses and Structures"), is amended:

- a. By amending the "transient vacation units" use or structure entry to read as follows:

Table 21-9.6(A)
Waikiki Special District Precinct
Permitted Uses and Structures

Use or Structure	Precinct		
	Apartment	Resort Mixed Use	Public
Transient vacation units		[P] <u>P/c</u>	

- b. By amending the "Ministerial uses" note to the table to read as follows:

"Ministerial uses:

- Ac = Special accessory use. Also see: Article 10, Accessory use; and Section 21-5.330, Home occupations
- P = Permitted principal use
- P/c = Permitted use subject to standards in Article 5
- P9 = Permitted principal use subject to standards enumerated in Article 9; see Section 21-9.80-5(d), 21-9.80-6(d), or 21-9.80-8(d)
- P-AMX = Within the apartment precinct, a permitted principal use only within the apartment mixed use subprecinct"



A BILL FOR AN ORDINANCE

SECTION 13. Chapter 21, Article 10 Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by amending the definitions of "bed and breakfast home" and "transient vacation unit," and adding new definitions of "booking service" and "hosting platform" to read as follows:

"Bed and breakfast home" means a use in which overnight accommodations are advertised, solicited, offered, or provided, or a combination of any of the foregoing, to guests for compensation, for periods of less than 30 days, in the same detached dwelling as that occupied by an owner, lessee, operator, or proprietor of the detached dwelling. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of guests.

"Booking service" means any reservation or payment service provided by a person that facilitates a transaction between an owner, operator, or proprietor of a bed and breakfast home or transient vacation unit, and a prospective user of that bed and breakfast home or transient vacation unit, and for which the person collects or receives, directly or indirectly through an agent or intermediary, a fee from any person in connection with the reservation or payment services provided for by the transaction.

"Hosting platform" means a person that collects or receives a fee from any person for booking services through which an owner, operator, or proprietor of a bed and breakfast home or transient vacation unit may offer use of the bed and breakfast home or transient vacation unit. Hosting platforms typically, but not necessarily, provide booking services through an online platform that allows the owner, operator, or proprietor to advertise the bed and breakfast home or transient vacation unit through a website provided by the hosting platform, and the hosting platform conducts a transaction by which potential users arrange the use of and payment for the bed and breakfast home or transient vacation unit, whether the payment is made directly to the owner, operator, or proprietor, or to the hosting platform.

"Transient vacation unit" means a dwelling unit or lodging unit [which] ~~that~~ is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of [employees] transient occupants."



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **85 (2018), CD2**

A BILL FOR AN ORDINANCE

SECTION 14. No later than six months after the effective date of this ordinance, the Department of Planning and Permitting shall:

- (1) Establish and implement specific procedures by which the public may submit written or verbal complaints and investigation requests to the Department regarding potential violations of applicable laws regarding bed and breakfast homes and transient vacation units. The procedures must include the establishment and staffing of a telephone hotline for verbal complaints and investigation requests from the public;
- (2) Establish and implement specific procedures by which the Department investigates public complaints in a timely manner, efficiently obtains evidence pursuant to the investigations, and notifies the complaining parties of the status and results of the investigation; and
- (3) Conduct community outreach to educate the public regarding the complaint and investigative process, and publicize the availability of the hotline.

SECTION 15. No later than 10 days after the Department of Planning and Permitting receives the monthly reports from hosting platforms pursuant to Section 21-2A.30, the Department shall prepare and submit a report to the Council showing, by Council district, for the month covered by the corresponding hosting platform reports:

- (1) The total number of bed and breakfast home listings in each district; and
- (2) The total number of transient vacation unit listings in each district.

SECTION 16. In SECTIONS 2 through 6, and 8 through 13 of this ordinance, ordinance material to be repealed is bracketed and stricken and new material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring. The Revisor of Ordinances shall, pursuant to the Revisor's authority under ROH Section 1-16.3(b)(1), replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of this ordinance with the actual date on which the ordinance takes effect.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **85 (2018), CD2**

A BILL FOR AN ORDINANCE

SECTION 17. Severability. If any provision of this ordinance, or the application thereof to any person or circumstances, is held invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 85 (2018), CD2

A BILL FOR AN ORDINANCE

SECTION 18. This ordinance takes effect on August 1, 2019; provided that
SECTIONS 7 and 15 of this ordinance take effect on October 1, 2020.

INTRODUCED BY:

Ron Menor

Joey Manahan

DATE OF INTRODUCTION:


November 15, 2018
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel

APPROVED this 26 day of June, 2019


KIRK CALDWELL, Mayor
City and County of Honolulu

FILED
JUL 26 2019
PURSUANT TO RCH 3-203.1

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
C E R T I F I C A T E

ORDINANCE

BILL 85 (2018), CD2

Introduced: 11/15/18 By: RON MENOR
JOEY MANAHAN Committee: ZONING, PLANNING AND
HOUSING

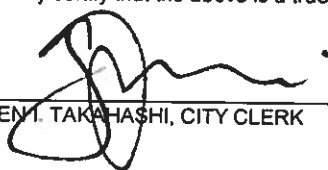
Title: A BILL FOR AN ORDINANCE RELATING TO VACATION RENTALS.

Voting Legend: * = Aye w/Reservations

12/05/18	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. 1 ABSENT: ANDERSON.
		CC-9(19) KOBAYASHI – RE-REFERRAL OF BILLS, RESOLUTIONS AND COMMUNICATIONS.
01/19/19	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
01/22/19	PLANNING	BILL POSTPONED IN COMMITTEE.
		NOTE: THE TEMPORARY APPOINTMENT OF MICHAEL FORMBY TO FILL A VACANCY IN THE OFFICE OF COUNCILMEMBER FOR COUNCIL DISTRICT IV WAS APPROVED ON TUESDAY, FEBRUARY 5, 2019. (refer to RES19-11)
03/18/19	SPECIAL PLANNING	CR-68(19) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.
04/06/19	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
04/17/19	COUNCIL/PUBLIC HEARING	CR-68(19) ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON PLANNING. 9 AYES: ANDERSON, ELEFANTE*, FORMBY, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TSUNEYOSHI.
04/23/19	PLANNING	BILL POSTPONED IN COMMITTEE. 6 AYES: ANDERSON, FORMBY, FUKUNAGA, MANAHAN, PINE, TSUNEYOSHI.
04/26/19	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
04/29/19	SPECIAL PLANNING	CR-146(19) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM. 5 AYES: ANDERSON, FORMBY, FUKUNAGA, PINE, TSUNEYOSHI. 1 EXCUSED: MANAHAN.
		NOTE: COUNCILMEMBER WATERS TOOK OFFICE ON MONDAY, MAY 6, 2019.
05/08/19	COUNCIL	NOTE: PROPOSED FD1 POSTED ON THE AGENDA WAS NOT CONSIDERED. CR-146(19) AND BILL 85 (2018), PROPOSED CD2 REFERRED TO COMMITTEE ON ZONING, PLANNING AND HOUSING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, MANAHAN, MENOR, PINE, TSUNEYOSHI, WATERS. 1 ABSENT: KOBAYASHI.
		CC-173(19) ANDERSON - COUNCIL STANDING COMMITTEE ASSIGNMENTS.
		CC-181(19) ANDERSON – RE-REFERRAL OF BILLS, RESOLUTIONS AND COMMUNICATIONS.

06/07/19	SPECIAL ZONING, PLANNING AND HOUSING	CR-184(19) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM. 4 AYES: ELEFANTE, KOBAYASHI, MENOR, WATERS. 1 EXCUSED: MANAHAN.
06/17/19	SPECIAL COUNCIL	CR-184(19) ADOPTED AND BILL 85 (2018), CD2 PASSED THIRD READING. 7 AYES: ELEFANTE*, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, WATERS. 2 NOES: ANDERSON, TSUNEYOSHI.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.



GLEN I. TAKAHASHI, CITY CLERK



IKAIKA ANDERSON, CHAIR AND PRESIDING OFFICER

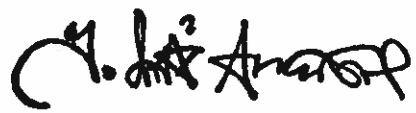
CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

CERTIFICATE

I hereby certify that Bill 85 (2018), CD2, was presented to the Honorable Kirk Caldwell, Mayor of the City and County of Honolulu, for his approval or otherwise; that on June 25, 2019, via Communication MM-77 (2019), the Mayor returned said Bill vetoed; and that the Council failed to reconsider the vote on the Bill within the period specified by Section 3-203 of the Revised Charter.


Dated, Honolulu, State of Hawaii, this 26th day of July, 2019.

CITY COUNCIL

By 

IKAIKA ANDERSON
Chair and Presiding Officer

ATTEST:



GLEN I. TAKAHASHI
City Clerk